



modified its previous decision to reflect that an amended schedule award of three percent be issued.<sup>2</sup>

Section 8124(a) of FECA provides: OWCP shall determine and make a finding of fact and make an award for or against payment of compensation.<sup>3</sup> Its regulations at section 10.126 of Title 20 of the Code of Federal Regulations provide: The decision of the Director of OWCP shall contain findings of fact and a statement of reasons.<sup>4</sup> Moreover, OWCP's procedure manual provides: The reasoning behind OWCP's evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.<sup>5</sup>

The Board, having duly considered the matter, finds that OWCP's November 3, 2011 decision fails to properly explain the findings with respect to the issue presented. The decision indicates that appellant is entitled to an amended schedule award for three percent; however, it is not clear whether OWCP is finding five percent total binaural impairment, even though two percent previously awarded was monaural, or an additional one percent monaural impairment to bring the total to three percent monaural impairment. Furthermore, the decision fails to address or contain any reasoning with regard to an impairment based on tinnitus, which must be based on a measurable binaural hearing loss. Regarding tinnitus, the A.M.A., *Guides* provide that tinnitus is not a disease but rather a symptom that may be the result of disease or injury.<sup>6</sup> The A.M.A., *Guides* state that if the tinnitus interferes with activities of daily living, including sleep, reading (and other tasks regarding concentration), enjoyment of quiet recreation, and emotional well-being, up to five percent may be added to a measurable binaural hearing impairment.<sup>7</sup> Thus, OWCP, in its November 3, 2011 decision, did not discharge its responsibility to set forth findings of fact and a clear statement of reasons explaining the disposition so that appellant could understand the basis for the decision, *i.e.*, whether he has more than a two percent monaural hearing loss, for which he received a schedule award.

The case must be returned to OWCP for a proper decision which includes findings of fact and a clear and precise statement regarding appellant's request for an increased schedule award, including consideration of his tinnitus. Following this and such further development as OWCP deems necessary, it shall issue a *de novo* decision.

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<sup>2</sup> OWCP payment records do not show that appellant received any additional schedule award compensation.

<sup>3</sup> 5 U.S.C. § 8124(a); *see Hubert Jones, Jr.*, 57 ECAB 467 (2006); *Paul M. Colosi*, 56 ECAB 294 (2005).

<sup>4</sup> 20 C.F.R. § 10.126. *See also O.R.*, 59 ECAB 432 (2008); *Teresa A. Ripley*, 56 ECAB 528 (2005); *M.L.*, Docket No. 09-956 (issued April 15, 2010).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4(e) (March 1997).

<sup>6</sup> *See A.M.A., Guides* 249.

<sup>7</sup> *Id.* *See also R.H.*, Docket No. 10-2139 (issued July 14, 2011); *Robert E. Cullison*, 55 ECAB 570 (2004).

**IT IS HEREBY ORDERED THAT** the November 3, 2011 decision be set aside and the matter remanded to the Office of Workers' Compensation Programs for further proceedings consistent with this order of the Board.

Issued: October 25, 2012 October 25, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board